City of Lafayette
Special City Council Meeting
MINUTES

Lafayette Community Center – Manzanita Room **September 8, 2008**
500 St. Mary's Road, Lafayette, California **6:30 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:30 p.m.

2. ROLL CALL

Present: Council Members: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Mala Subramanian, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S (Tatzin/Federighi) to adopt the agenda. Vote: 5-0.

4. PUBLIC COMMENTS – None

5. CLOSED SESSION

A. Conference with Legal Counsel – Significant Exposure to Litigation
Initiation of Litigation pursuant to Government Code section 54956.9(b) (1 Case)

B. Public Employee Performance Evaluation (Gov. Code section 54957)
Title: City Manager

6. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Federighi) to adjourn the City Council Regular Meeting, the Creeks Committee Special Meeting, and the Redevelopment Agency Special Meeting at 7:00 p.m. to the regular City Council meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

11A

City of Lafayette
City Council Regular Meeting
Redevelopment Agency Special Meeting

MINUTES

Lafayette Community Center **September 8, 2008**
500 St. Mary's Road, Lafayette, California **7:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:05 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning and Building Services Manager; Sarah Allen, Planning Intern; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Mayor Anderson.

4. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

5. PUBLIC COMMENTS

STEVEN JAMES SWANTNER voiced concerns about speed and lack of police enforcement on St. Mary's Road, safety of pedestrians and asked to have an officer present in the mornings from 7:00 to 9:00 a.m. to write tickets.

6. REPORT OF CLOSED SESSION

Mayor Anderson said the Council met in Closed Session and there was no reportable action taken.

7. PRESENTATIONS

A. Jeanne Ateljevich, DSIMPIC Chairperson
Downtown Street Improvement Master Plan Implementation Committee (DSIMPIC) Annual Update and Possible Appointment of new member to the DSIMPIC
Recommendation: Discuss and direct staff.

JEANNE ATELJEVICH, DSIMPIC Chairperson, reported the committee meets only as needed and this year there have been only a few applications. They have focused their efforts on the

stretch of Mt. Diablo Blvd near The Woodbury reviewing a sidewalk which will be installed from the Veterans Building and meeting up with the existing sidewalk. She said they also perform a lot of advisory work with staff, they are one member short on the committee and she asked that the vacancy be filled by Bob Cleaver if at all possible, as this committee's work relates well to Design Review's work. She confirmed with the Mayor that the Council could simply appoint a member without the requirement for an advertisement or recruitment process.

Ms. Ateljevich said there is one block in the very core of the downtown that has not had pavers or streetlights installed; between the two Lafayette Circles on the south side of Mt. Diablo Road.

Vice Mayor Tatzin said the downtown property owners rejected a proposal to increase the property assessment which would pay for the on-going maintenance of the downtown improvements, and the City is not going to place a measure on the ballot to fund that maintenance in sales tax. It is possible that the Finance Committee will return with a recommendation to bundle all of the downtown costs, including the cost of the additional officers downtown, maintenance costs, and others related to downtown servicing into a package and work with the Chamber to come up with a funding solution for that. This effort may fail, and the City would then be in a position as to changes to be made in the operating costs for the downtown. He encouraged the committee to think about a plan that would maintain as much of the downtown beauty, but dramatically reduce the operating and maintenance costs.

Ms. Ateljevich believed this would be difficult unless landscaping is taken out, which is not the focus of the downtown specific plan process. She said they are already using extremely low maintenance, native plants, and drip irrigation, and they could propose dwarf varieties of plants to save on pruning costs.

Mayor Anderson agreed the City may find itself in a position to remove some of the landscaping and that DSIMPIC should starting thinking about how it is becoming a problem and what alternatives might be available.

Councilmember Federighi said she has spoken to a couple of Chamber members who are interested in assisting with maintenance and she did not necessarily believe police costs should be packaged into all of the downtown costs for maintenance. Vice Mayor Tatzin clarified, stating he suggested DSIMPIC think about ways to reduce the cost on ongoing maintenance in a way that would continue to be very attractive, and he noted Ms. Robinson had provided total cost breakdown figures which he agreed could be shared with DSIMPIC in their review.

Councilmember Andersson suggested that even though there is not necessarily a solution, the work done is grounds for a starting point as to what is possible in the savings area, and then the City and Chamber can review what is possible in the fundraising area.

Councilmember Anduri confirmed with Ms. Ateljevich she was referring to the block in the core area in her discussions regarding trees and plantings.

Public Comments:

ANN BURNS suggested individuals and businesses sponsor landscaping, which could serve as an idea to maintain landscaping.

ACTION: It was M/S/C (Federighi/Tatzin) to appoint Bob Cleaver to DSIMPIC. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. Linda Peterson, Banner Advisory Committee Chairperson Annual Update
Recommendation: Receive and file.

Linda Peterson, Banner Advisory Committee Chairperson, said their budget allows commissioning one new set of banners every year, and she presented the Council with examples. Mayor Anderson questioned the process of choosing the banner to be disposed of and City Manager Falk said it tends to either be the banner which is the oldest or most tattered, and his guess would be the Celebrate the Arts or the Relax at the Lafayette Reservoir banners. He said with the exception of a couple of sets, City Manager Falk said the committee has designed all of the other sets. Since the program's inception 10 years ago, one single designer has been used for all of them, maintaining a consistency in design by Jennifer Morla of San Francisco.

Mayor Anderson suggested the old banners be signed by the artist and auctioned off, and City Manager Falk agreed that staff could further investigate this possibility.

Public Comments:

MARY ANN HOISINGTON voiced confusion about the agenda item thinking the banners might have been threatened. She supported them; she felt they draw people together and suggested never cutting them from the budget.

8. OLD BUSINESS

A. Agreement for Use of Lafayette Plaza by CoreQuest Corporation and Contra Costa Adventure Boot Camp
Recommendation: Discuss and direct staff.

CHUCK STUART referred to an email from the applicant and hoped the Council could read the email.

Mr. Stuart said at the last meeting, a Circulation Commissioner answered the Council's question as to what she thought of the proposal, who stated she would not want to touch it with a 10-foot pole.

Vice Mayor Tatzin made a motion to receive and file. Councilmember Andersson seconded the motion, stating it seems to him that there is concern about parking issues, appropriateness of a private enterprise coming into the park, felt it might be worth trying out the situation on a trial basis to determine if parking is impacted; however, if the applicant did not want to pursue this, he would second the motion to receive and file.

Councilmember Anduri said it seems like the Council was interested in it because it would help the businesses in the area, but it now appears the businesses do not want it. He also pointed out there is a lot of anecdotal information on the parking which shows that in terms of the difference between spaces available and occupied spaces, there is virtually in excess of 16 spaces available, which he thought was interesting, compared to the perception of people versus reality. Mayor Anderson confirmed the parking enforcement officer conducted the survey every day between 9:00 and 10:00 a.m.

Councilmember Federighi echoed comments of Councilmembers Andersson and Anduri, stating she noticed this morning at about 11:00 a.m.; there were only two parked cars on Plaza Way and Golden Gate Way up to at least First Street. However, the point is mute because it seems the application is being withdrawn.

ACTION: It was M/S/C (Tatzin/Andersson) to receive and file. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

9. STAFF REPORTS

A. Sarah Allen, Planning Intern

Request for direction to initiate zoning text amendment to Section 6-984 of the Lafayette Municipal Code to allow medical use within the C-1 zoning district with approval of a land use permit

Recommendation: Direct staff to proceed with zoning text amendment to Section 6-984 of the Lafayette Municipal Code.

Sarah Allen, Planning Intern gave the staff report, noting medical use was restricted to the C district and portions of the C-1 but it was also permitted in MRO and MRT zones as well as some in the MRA district. The item is to determine whether or not to allow a zoning text amending to Section 6-984 of the Lafayette Municipal Code to allow medical use within the C-1 zoning district with approval of a land use permit. On August 7, 2008, the Planning Commission considered the request; the Commission found that in some cases, medical uses could be appropriate and directed staff to initiate a zoning text amendment.

During the process of a land use permit application the request is analyzed for parking requirements, compatibility of surrounding uses, impacts on the City's tax base and overall consistency with the General Plan. The Commission will be able to deny applications if the proposal does not meet the standards outlined in the findings required for a land use permit. Staff is recommending Council direct staff to process a zoning text amendment to allow medical use in the C-1 zoning district with a land use permit.

Mayor Anderson said he also saw an option to have medical use in C-1 district but it would not have to be on the ground floor and he questioned if this was a viable option or not. Ms. Allen said the applicant is requesting use on the ground floor, but she agreed that an option for the Council could be to restrict it to not be on the ground floor.

Councilmember Anduri said if the Council proceeds to make the change, one of the factors to be considered is whether this is an area that would take away from the tax base. So, presumably, someone would have to show this is not a possibility or there is not enough demand for retail in that area. He said if a decision is made to grant the request and then 10 years later the owner moves out and another medical use wants to move in, he questioned whether the next owner needs to apply for a land use permit. City Attorney Subramanian said the permit would run with the land. She said an argument could be made if there were a significant lapse in time between the times of operation, but typically they run with the land.

Councilmember Federighi questioned if 120 days would qualify as a significant lapse in time, and City Attorney Subramanian felt this was a short timeframe, but she could return with a more definitive answer.

Councilmember Anduri questioned if the Downtown Strategic Plan members considered the request, and he would want them to review the request before voting on it.

Councilmember Andersson said it seems there are examples along Mt. Diablo of substantial foot traffic which might impinge on the commercial area and he felt staff should be able to identify those streets, as there are sometimes medical uses on second floors that are an issue for some people.

Vice Mayor Tatzin felt one activity is whether the site is good for such an activity, and given the use which is upstairs and compatible in the building, it is difficult to argue that this use should not be allowed on the ground floor. He felt there is a slight complication because there is a higher parking requirement per square footage of building for this use than for uses which have preceded it, and further the Planning Commission and Council had already granted a parking variance for the adjacent building, so he was not sure if added parking would fit within those number of spaces. He said the larger complication comes when the City takes a site specific proposal and employs a zoning-wide solution. He also said this was the drive-up portion of the commercial zone and little foot traffic is not anticipated, except for larger purposes. Therefore, he believed the Council should determine whether the parking would not make the business a viable use and determine if there is an opportunity to do an overlay district with defined boundaries as an allowable use, as the City has done in other areas, to allow medical here.

Councilmember Federighi confirmed that the City could not just deal with this one building and application, and that it would be possible to do an overlay district for a limited area. She questioned what size an overlay district would be to make it not spot-zoned. Ms. Srivatsa said staff is reluctant to create an overlay for this one building which would require some study. Staff's recommendation to the Planning Commission initially was to wait for the downtown strategy to be completed, staff does not disagree, but she believes good uses should be allowed in this general area perhaps on the upper floor to maintain the commercial nature of the ground floor. But, the question is when to do it and the Planning Commission felt that this was an old requirement of the zoning code that restricted medical uses to very specific areas in the C-1 district and did not feel it was necessary to wait until the downtown strategy was done. She recommended that if the Council does initiate a zoning text amendment that it be for the entire district or staff be given enough time to look at the buildings in the C-1 district to identify those which would qualify. Another suggestion would be a rezoning to P-1, which she did not recommend.

Councilmember Anduri said he could be swayed, but he did not like to look at one particular application and let it drive the change. He initially felt the sales tax base could be a factor each time the building changed hands and if this cannot be done, he would much rather have the downtown strategic plan members review the request.

Councilmember Federighi said Jean Ateljevich had remarked in the minutes that the Downtown Strategic Plan members had been strongly considering easing the restrictions on uses in the C-1 district and other districts, and she confirmed this was not discussed in detail or worked out yet.

ACTION: It was M/S/C (Tatzin/Federighi) to forward the item to the Downtown Strategy Advisory Committee. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. Niroop Srivatsa, Planning & Building Services Manager

Palos Colorados Precise Development Plan: Evaluation of the photo-simulations of the proposed homes to determine if they are visible from the Lafayette BART station

Recommendation: Direct staff to forward Lafayette's comments to the Moraga Planning Commission.

Planning and Building Services Manager Niroop Srivatsa gave the staff report, stating in 2007, the City entered into a settlement agreement with the Town of Moraga and Richfield Investment Corporation and there were certain conditions relating to the golf course municipal fund and visibility that came out of the settlement agreement. This was when the general development plan for Palos Colorados was being reviewed. The staff report contains a table which lists the conditions in the settlement agreement as well as the conditions of the general development plan. Moraga is processing the third stage, precise development plan, and the settlement agreement requires that at this stage certain lots in the project be situated at certain specific elevations and be restricted to certain heights. The settlement agreement also cites one particular lot; Lot 106, and states that this lot is identified as being visible from the BART station and would need to be story-poled at the design review stage and its visibility assessed and fully mitigated.

In addition to these conditions, there are several conditions that the general development plan contains which are not reflected in the settlement agreement. The table attached to the staff report lists the first six lots that are to be at a certain elevation and certain height and she stated that the precise development plan complies with those requirements. Lot 106 continues to be visible as assessed by the City's consultant and so staff recommends the City forward to Moraga a requirement that there be a condition in the precise development plan that the house be story-poled and assessed for visual impacts at the design review stage.

The conditions for the other lots, which were cited in the general development plan and not in the settlement agreement, require that the rooflines not protrude above the existing skyline. The City's visual consultant assessed those lots and determined many of them do protrude above the skyline and will be visible. Staff would like to forward a recommendation to Moraga's Planning Commission that the elevation of those lots be lowered or in some way reduced in size and scope. These are not conditions in the settlement agreement but in the general development plan and do not carry as much weight from a legal standpoint. Given the limited time staff has had to review the matter, she forwarded staff's comments to Richfield Investment Corporation and thereafter a letter will be forwarded to the Moraga Town Council.

Councilmember Anduri questioned Lot 83 which appears to be very visible. Ms. Srivatsa said it is a visible house but it is a lot that was part of the settlement agreement which requires it to be at a certain elevation and restricted to a certain height, which has been satisfied.

Mayor Anderson said the language on the verification is somewhat ambiguous; "unit is obstructed by both the background vegetation and not the foreground vegetation."

Councilmember Federighi said just prior to Lot 106 being described, it states, "lot meets the condition of approval" and she questioned and confirmed this applies to Lot 83.

Councilmember Anduri confirmed that the City will convey to Moraga that the lots as proposed, they do not comply with conditions of approval of the general development plan. City Attorney Subramanian said the settlement agreement precludes the City from challenging any approval on the project other than the conditions that relate to Lot 106. The other 7 lots comply with the

conditions, so staff could pass on the information that it does not appear to be in compliance with the general development plan; however, the City could not challenge any approval if Moraga were to approve those lots.

Ms. Srivatsa reiterated that although the lots in the general development plan break the horizon, they are obstructed by either foreground or background vegetation. She noted also that when the photo-simulations were done, all the lots were story-poled to do the photo-simulations for Moraga, but they did not inform Lafayette.

Vice Mayor Tatzin suggested following staff's recommendations and forwarding the comments.

Councilmember Andersson said on several of them it states it breaks the horizon, but he questioned how subjective was that judgment. Ms. Srivatsa said the City's consultant has been very specific on identifying where the lots are and use of the correct elevations. She said they definitely break the horizon which is why staff feels they do not comply with the general development plan condition. Staff has not had the time to review our consultant's analysis with Richfield's analysis and intend to do so in the coming week prior to forwarding the recommendations. In 2006 there was the same conversation between the two consultants and there were instances where our consultant was not correct in his evaluation, so she wants to be sure to have all facts correct before speaking with Moraga.

Councilmember Andersson said assuming it is a subjective determination, he questioned how Moraga would react to it, and Ms. Srivatsa said Richfield will focus on what can be seen from the BART station; whether it protrudes above the horizon or not is not of importance to them.

Councilmember Andersson said each of these indicate that they are obstructed by background and foreground vegetation but also roof and walls are visible, and Ms. Srivatsa said what is meant is that roof and walls protrude above the horizon so they break the skyline, but they are obstructed by foreground or background vegetation.

Mayor Anderson confirmed there were no pubic speakers.

ACTION: The Council directed staff to forward Lafayette's comments to the Moraga Planning Commission. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

10. PUBLIC HEARINGS

A. Ann Merideth, Community Development Director
Introduce Ordinance 578 repealing Chapter 6-26, Public Art, and adding Chapter 2-12, Public Art Commission, and Chapter 11-7, Public Art
Recommendation: Introduce Ordinance 578 and continue to September 22, 2008 for second reading and adoption.

Community Development Director Ann Merideth gave the staff report, stating Lafayette started its public art program in 2004 and it is similar to other California cities programs; it was used for the Mercantile project and Woodbury projects. However, since working on the Library public art program and with the Oakland Museum, staff realized this is a more complicated concept in terms of art on public lands, gifts of public art, and how these are handled and reviewed. The Oakland Museum gave her their gift policy and the Port of Oakland's ordinance which covers all of the public art at the Oakland Airport, the program of which Oakland Museum manages.

She said seeing how the Library Public Art Committee and how a commission could work, staff now has a good background to move forward and look at the Library's program, which could involve gifts and grants.

Ms. Merideth said staff recommends repealing the ordinance, adding a new chapter to create the Public Art Commission to be consistent with other commission formats, and adding a new chapter on Public Art.

Councilmember Andersson said he believes this is an interesting and exciting prospect, and questioned what happens when artwork is de-accessioned? Ms. Merideth said it could be sold or destroyed; it would depend upon the artwork. But it is removed from the public collection.

Councilmember Andersson referred to the duties of the commission, and believed missing was to review the need for maintenance on art work. He said, regarding the types of artwork that would be encouraged, one of the criteria is that it be one of a kind or with specific exceptions, limited editions of things. He questioned the rationale for that limitation. Ms. Merideth said you want to ensure what you have is top-quality, not mass produced, something unique and something that has been selected for its location to reflect and enhance the community.

City Manager Falk stressed that the concern here is that there are a number of mass-market sculptors who make statues of little girls reading books and they'll sell 500 or 1,000 copies of these to any library or city that would buy it. The intent here is that when you arrive in Lafayette, it is not something you saw in another city, but something unique.

Councilmember Andersson said given the provision that artwork is donated or provided and that the donor be approached for the cost of maintenance or transportation, he voiced concern over their reaction. He asked if there was flexibility within the ordinance to have a fund to cover those costs. Ms. Merideth said this would be up to the donor on how those would be covered. She said if a proposal comes forward and the Public Arts Commission believes the opportunity is so good and they would be willing to use money from the public art fund, they could. She felt it was for the protection of the City not receive objects that will cost the City money to either install, transport, or maintain, but she agreed to reflect his comment.

Councilmember Anduri questioned the reason for making the body a commission as opposed to a committee? City Manager Falk said commissions are considered to be permanent and committees have a temporary nature. Ms. Merideth also noted that in all cases, cities which had public art bodies were commissions, which provide some weight as they may need to be able to manage a significant collection of work.

Vice Mayor Tatzin questioned the discretion of mass-market products, and Ms. Merideth said the artists' resumes could be reviewed, who they sell to, what they make, the number of items, etc.

City Manager Falk reiterated that from an FPPC and Brown Act requirement, there are no cost differences between a commission and a committee. As the City has seen with the library art, art selection and de-selection or failure to select can become controversial and politicized. Ms. Merideth is suggesting that this Commission needs some weight behind it, and staff does not believe the art program will go away anytime soon. Councilmember Anduri confirmed the commission would make recommendations to the City Council, so those members will be given a great deal of deference and he is comfortable with this.

Ms. Merideth also noted the two artwork commissions with the Library which worked out very well for the City Council. She also said the Library will have rotating exhibits. A body will be needed to manage that process in terms of curating the exhibits and collections, and this will become an important function for somebody.

Mayor Anderson opened the public hearing. There were no public speakers and he closed the public hearing.

Mayor Anderson confirmed changes to the ordinance include the addition of maintenance considerations as part of the Commission's duty, and he questioned whether or not the Commission should be made up of seven members.

Vice Mayor Tatzin believed that because people come to the Council and talk about the City forming another program area, whether the City's first priorities are being met, and the budget for the Commission, cost, and he felt this could come back and bite them. He thinks proceeding tonight without a budget or understanding where the funding will come from other than the general fund is premature. He said the idea of a commission was formed over a decade ago. At the time, the City took no action, but those interested in a commission formed a project committee, the City donated them $500 and they would periodically come and talk about art issues. He said he saw a risk of proceeding along the commission lines in terms of the ramifications the Council would hear about priorities.

Councilmember Anduri said most of the tasks must be done, acknowledged Vice Mayor Tatzin's concerns about having a budget before moving forward, but he asked what the Creeks Committee's budget was from the general fund. Ms. Merideth said it is simply a question of staff time which comes from the Clean Water budget. City Manager Falk said there is a cost, it may not be the general fund, and whenever a committee or commission is set up, staff members must post agendas, take minutes, run the gambit of all of the requirements, and depending upon how often they meet, this will control the costs. He said the Banner Advisory Committee met once last year during the daytime and there was no incremental cost whatsoever to the City. It is hard to predict what the commission might cost because if development slows down, this commission might meet once or twice a year. On the other hand, if there is a robust period of development, it could meet monthly or more often.

Ms. Merideth said right away, there will be $500,000 worth of public art that the city will own that somebody will need to watch over, and we already have lots of people interested in donations, people will be expecting something to be on the walls, and she thinks the work is there regardless of whether there is a group or not.

Councilmember Anduri said he believes that is a critical reason for having a commission, still favors that a budget be established, and said the library experience served as a good example of a great process.

Mayor Anderson questioned if there was something to add to the art cost as it comes in as a donation, which would provide some administrative fee to cover the cost of the operation of the committee. City Manager Falk said alternatively, if the City implemented a 1% fee, we would direct the developer to expend 75 basis points on the art and leave the other 25 in a fund for maintenance and administration, which might be able to be written into the ordinance or done by practice.

Councilmember Federighi felt that the 1% is an existing requirement and would have to be modified. Mayor Anderson felt language should clearly express that some percentage of this will either be used as a maintenance fund or administrative, and not for art, per se. Councilmember Federighi agreed with this, but was also concerned like Councilmember Andersson over costs when donating items.

Councilmember Anduri said if it is on private property, the maintenance obligation is on the property owner, so it could be 95/5 and 97/3 and still probably provide enough funding to keep the commission going.

Mayor Anderson confirmed with the Council their desire is to have that 1% provide some funds to administer the process. City Manager Falk noted a nexus study will need to be prepared, which is not complicated and staff could agree to do this and return with the information.

Vice Mayor Tatzin said to the extent the City spends any significant amount of money on the administration you are buying less art, and the goal here is to get good art out in front of people. He also requested that a proposed budget be formulated for the commission, which will also relate to the fee set aside for administration.

Councilmember Anduri confirmed with the City Manager that the 1% on the Woodbury project was approximately $300,000 and the art location would most likely be in the East Bay MUD Aqueduct right-of-way area.

ACTION: It was M/S/C (Tatzin/Andersson) to continue Ordinance 578 for amendments and preparation of a nexus study draft Public Art Commission budget. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

11. CONSENT CALENDAR

Councilmember Anduri requested removal of Item A.

ACTION: It was M/S/C (Federighi/Tatzin) to convene the Redevelopment Agency and approve remaining items B through O. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. **Ordinance 577 Amending Section 8-8122 of Chapter 8-8 of the Lafayette Municipal Code to permit active and expeditious loading, unloading and delivery or pick up of property in any place marked as a loading zone.**
   Recommendation: Waive second reading and adopt Ordinance 577.

C. **Resignation from Elaine Welch and JoAnne Archer, Senior Needs Assessment Task Force.**
   Recommendation: Accept with regret.

D. **Resignation from Barbara Schuh, Senior Services Commissioner.**
   Recommendation: Accept with regret.

E. **Resignation from Elizabeth Welch, Senior Services Commissioner.**
   Recommendation: Accept with regret.

F. **Agreement relating to the installation and maintenance of existing and new landscaping between Pacific National Bank and the City of Lafayette, for property located at 3528 Mt. Diablo Blvd. APN 243-020-032**
Recommendation: Accept agreement and authorize the City Clerk to record.

G. **Agreement relating to the maintenance of existing landscaping between Bank of America and the City of Lafayette, for property located at 3530 Mt. Diablo Blvd. APN 243-020-034**
Recommendation: Accept agreement and authorize the City Clerk to record.

H. **Agreement relating to the maintenance of existing landscaping between Eric Mitchell Fonstein and Sally Ann Fonstein and the City of Lafayette, for property located at 3160 Stanley Blvd. APN 175-052-006**
Recommendation: Accept agreement and authorize the City Clerk to record.

I. **Agreement relating to the maintenance of existing and new landscaping between Rancho Colorados Club and the City of Lafayette, for property located at 3016 Rohrer Drive. APN 237-260-007**
Recommendation: Accept agreement and authorize the City Clerk to record.

J. **Agreement for sidewalk, fencing, landscaping and irrigation encroachment into City's right-of-way along frontage at 3454 Hamlin Road between the Roman Catholic Bishop Oakland and the City of Lafayette. APN 239-070-030**
Recommendation: Accept agreement and authorize the City Clerk to record.

K. **Reformatted Environmental Strategy Task Force**
Recommendation: Approve the name change to Environmental Task Force and confirm the membership of the Task Force.

L. **Resolution 2008-041 Establishing the Rate of Tax Levy to Provide Payment of Interest and Principal on Series 2002 General Obligation Bonds and Series 2004 General Obligation Bonds for Fiscal Year 2008-2009**
Recommendation: Adopt Resolution 2008-041.

M. **Camino Diablo Guard Rail Project – Project Number 014-9669, Final Acceptance**
Recommendation: Accept project as complete and authorize City Clerk to file a Notice of Completion for Project Number 014-9669.

Convene Redevelopment Agency

N. **Agreement with Brian Goggin for the Outdoor Plaza Corridor Art Project at the Lafayette Library and Learning Center**
Recommendation: Authorize the Executive Director to execute the agreement with Brian Goggin.

O. **Third Amendment to The Woodbury Owner Participation Agreement (OPA)**
Recommendation: Approve the third amendment to The Woodbury Owner Participation Agreement.

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Item Removed for Discussion:

A. City Council Minutes
August 11, 2008
Recommendation: Approve.

Councilmember Anduri referred to the bottom of page 7, "Councilmember Anduri agreed and thought this sort of regulation provided an opportunity for those who fall under specific conviction categories." He remembered he agreed to have this go back to Crime Prevention and questioned if it was another Councilmember who said this statement. He asked the sentence be amended to read; "Councilmember Anduri agreed this should go back to the Crime Prevention Committee."

Councilmember Anduri referred to page 15, second paragraph from the bottom; replace sentence with "Councilmember Anduri said this seems to be an unusual type of application."

ACTION: It was M/S/C (Federighi/Andersson) to approve the Minutes of August 11, 2008 as amended. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

12. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Mayor Anderson reported on his and City Manager Falk's attendance to the Mayors' Conference in Antioch.

Vice Mayor Tatzin reported on his work on updating the Lamorinda Action Plan, Central County has decided they want quantifiable traffic service objectives, and more information will return on September 22, 2008.

Councilmember Anduri passed on a note regarding the tree planting ceremony, which he reminded the Council how much these events mean to a lot of people.

B. Mayor Mike Anderson
Potential topics for the Commissioner/Committee Breakfast on October 25, 2008
Recommendation: Discuss and direct staff.

Mayor Anderson and the Council discussed potential topics for the breakfast which was scheduled for 8:15 AM to 11:00 AM on October 25, 2008. Suggestions included 1) discussion on the levels of independence; 2) role-playing and sharing of techniques; 3) mission statement ideas and amendments; 4) securing a person from Parks and Recreation to provide funny/interactive events or Jeopardy; 5) League of California Cities or Institute for Local Government ethics and/or commission training; and 6) brief reports from each Commission.

C. Mayor Mike Anderson and Councilmember Brandt Andersson
Appointment to the Capital Projects Assessment Committee

Recommendation: Appoint new members to the Capital Projects Assessment Committee.

ACTION: It was M/S/C to appoint Appointed Gary Huisingh and Earl Piermattei to the Capital Projects Assessment Committee. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

D. Lafayette Art & Wine Festival Booth Schedule
Recommendation: Council sign-up for the city's booth at the Art & Wine Festival.

ACTION: Councilmembers scheduled their time for the City's booth at the Art and Wine Festival.

13. WRITTEN COMMUNICATIONS

ACTION: It was M/S/C (Tatzin/Andersson) to take Item 13G out of order. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

G. Letter from Jim Negri, Superintendent, Acalanes Union High School District requesting time on a future council agenda to make a presentation regarding the $93 million bond measure on the November 2008 ballot.
Recommendation: Discuss and direct staff.

RICHARD WHITMORE, Acalanes Union High School Governing Board, said Measure E would be on the ballot in November, said it is an infrastructure bond for the district to bring its high school back to shape with rewiring, re-roofing, and a new pool, and said the District appreciates the City's support.

ACTION: It was M/S/C (Tatzin/Andersson) to endorse the $93 million bond measure on the November 2008 ballot for the Acalanes Union High School District. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

City Manager Falk noted the high school received notification that it was ranked number one based on the API scores of all high school districts in the State of California, second year in a row, and he congratulated the District and Mr. Whitmore, who is the new superintendent of the Los Gatos School District.

A. E-mail from Beth Quirarte, Director of Fund Development, Eden Housing requesting a proclamation recognizing their 40th Anniversary.
Recommendation: Discuss and direct staff.

Councilmember Anduri requested some edits be made to the proclamation and supported its adoption.

ACTION: It was M/S (Tatzin/Federighi) to approve the proclamation recognizing Eden Housing's 40th Anniversary, as amended. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. Letter from Frederick L. Granados, National Committeeman for the National Association of Insurance and Financial Advisers requesting a proclamation proclaiming September as Life Insurance Awareness Month.

Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Tatzin/Andersson) to receive and file. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

C. **E-mail from Gennifer Mountain, Falls Prevention Program Manager, Meals on Wheels-Senior Outreach Services requesting a proclamation proclaiming September 21-27 as "Falls Prevention Awareness Week".**
Recommendation: Discuss and direct staff.

Councilmember Anduri requested edits be made to the second paragraph from the bottom of the proclamation (change Contra Costa County to Lafayette) and supported its approval.

ACTION: It was M/S/C (Tatzin/Andersson) to approve the proclamation proclaiming September 21-27 as "Falls Prevention Awareness Week". Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

D. **Letter from Barbara Beratta, Daughters of the American Revolution requesting a proclamation proclaiming September 17-23 as National Constitution Week.**
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Tatzin/Federighi) to approve the proclamation proclaiming September 17-23 as National Constitution Week. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

E. **E-mail from Kathy Landess on behalf of The Silver Star Families of America requesting a proclamation recognizing May 1st as "Silver Star Banner Day".**
Recommendation: Discuss and direct staff.

Councilmember Anduri requested edits be made to the proclamation by removing the words in the second paragraph, "the permanent and official day", and questioned whether the City received both local and national requests.

ACTION: It was M/S/C (Tatzin/Federighi) to approve the proclamation, as amended, recognizing May 1st as "Silver Star Banner Day." Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

F. **Letter from Patti Link Cawood, Fundraising Manager, STAND requesting a proclamation proclaiming October as Domestic Violence Awareness Month.**
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Tatzin/Federighi) to approve the proclamation proclaiming October as Domestic Violence Awareness Month. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

14. ADJOURNMENT

The Council adjourned at 9:10 in memory of John Todd to the next regularly scheduled meeting on Monday, September 22, 2008.

APPROVED:

Mike Anderson, Mayor

ATTEST:

Joanne Robbins, City Clerk